

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION  
OPIATE LIGATION**

***APPLIES TO ALL CASES***

**MDL No. 2804**

**Case No. 1:17-MD-2804**

**Hon. Dan A. Polster**

**NOTICE OF FILING FORM OF REQUEST TO WAIVE SERVICE OF A SUMMONS  
AND FORM OF WAIVER FOR DEFENDANT DEPOMED, INC.**

Please take notice that Defendant Depomed, Inc. hereby submits a Form of Request to Waive Service of a Summons and Form of Waiver, attached as Exhibits A and B, under Fed. R. Civ. P. 4(d) in the above-captioned action, in accordance with paragraph 6(d) of Case Management Order One (Dkt. 232). The standard forms have been modified in accordance with this Court's orders. Depomed, Inc. identifies Kevin Sadler as the designated person to electronically accept waiver requests.

Respectfully submitted,

**BAKER BOTTS L.L.P.**

By: /s/ Kevin M. Sadler

Kevin M. Sadler  
Texas Bar No. 17512450  
California Bar No. 283765  
kevin.sadler@bakerbotts.com  
1001 Page Mill Road  
Building One, Suite 200  
Palo Alto, CA 94304-1007  
Tel: 650.739.7500  
Fax: 650.739.7699

**ATTORNEY FOR DEFENDANT  
DEPOMED, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of April, 2018, the foregoing **Notice of Filing Form of Request to Waive Service of a Summons and Form of Waiver for Defendant Depomed, Inc.** was served via the Court's Electronic Filing System upon all parties.

*/s/ Kevin M. Sadler*

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Kevin M. Sadler

# EXHIBIT A

## UNITED STATES DISTRICT COURT

for the  
Northern District of Ohio\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*\_\_\_\_\_  
)  
)  
) Civil Action No.  
)  
)

## NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Depomed, Inc., c/o Kevin Sadler, Baker Botts L.L.P., 1001 Page Mill Rd., Bldg. 1, Suite 200, Palo Alto, CA 94304  
(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)**Why are you getting this?**

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 60 days (give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States) from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

**What happens next?**

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you. The Court's moratorium on all filings includes a moratorium on the filing of answers or motions under Rule 12. You shall not answer or move under Rule 12 unless so ordered by the Court.

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*\_\_\_\_\_  
*Printed name*\_\_\_\_\_  
*Address*\_\_\_\_\_  
*E-mail address*\_\_\_\_\_  
*Telephone number*

# **EXHIBIT B**

UNITED STATES DISTRICT COURT

for the  
Northern District of Ohio

\_\_\_\_\_  
*Plaintiff*

v.

\_\_\_\_\_  
*Defendant*

)  
)  
) Civil Action No.  
)  
)

**WAIVER OF THE SERVICE OF SUMMONS**

To: \_\_\_\_\_  
*(Name of the plaintiff's attorney or unrepresented plaintiff)*

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

The Court's moratorium on all filings includes a moratorium on the filing of answers or motions under Rule 12. Defendants will not answer or move under Rule 12 unless so ordered by the Court. The failure to file an answer or motion under Rule 12 will not be grounds for default judgment.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of the attorney or unrepresented party*

Depomed, Inc.

\_\_\_\_\_  
*Printed name of party waiving service of summons*

Kevin Sadler

\_\_\_\_\_  
*Printed name*

Baker Botts L.L.P.

1001 Page Mill Rd., Bldg 1, Suite 200

Palo Alto, CA 94304-1007

\_\_\_\_\_  
*Address*

kevin.sadler@bakerbotts.com

\_\_\_\_\_  
*E-mail address*

(650) 739-7500

\_\_\_\_\_  
*Telephone number*

**Duty to Avoid Unnecessary Expenses of Serving a Summons**

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.